

August 2, 1971

Approved For Release 2005/06/06 : CIA-RDP75B00380R000700090003-7

CONGRESSIONAL RECORD — HOUSE

H 7611

Hicks, Mass.	Mizell	Scott
Hicks, Wash.	Mollohan	Sebelius
Hogan	Monagan	Selberling
Hollifield	Moorhead	Shipley
Horton	Morgan	Shoup
Hosmer	Moss	Shriver
Howard	Murphy, Ill.	Sikes
Hull	Murphy, N.Y.	Sisk
Hungate	Myers	Skubitz
Hunt	Natcher	Slack
Hutchinson	Nedzi	Smith, Calif.
Ichord	Nelsen	Smith, Iowa
Jacobs	Nichols	Smith, N.Y.
Jarman	Obey	Snyder
Johnson, Calif.	O'Hara	Spence
Johnson, Pa.	O'Konski	Springer
Jonas	O'Neill	Stafford
Jones, Ala.	Patman	Staggers
Jones, N.C.	Patten	Stanton
Karsh	Pelly	J. William
Kastenmeier	Pepper	Stanton
Kazen	Perkins	James V.
Keating	Pettis	Steed
Keith	Pickle	Steele
Kemp	Pike	Steiger, Ariz.
King	Pirnie	Steiger, Wis.
Kluczynski	Poage	Stephens
Kuykendall	Podell	Stratton
Kyl	Powell	Stubblefield
Kyros	Pryor, N.C.	Stuckey
Latta	Price, Ill.	Symington
Lennon	Price, Tex.	Talcott
Lent	Pryor, Ark.	Taylor
Link	Pucinski	Teague, Calif.
Lloyd	Quie	Teague, Tex.
Long, Md.	Quillen	Terry
Lujan	Rallsback	Thompson, N.J.
McClory	Randall	Thomson, Wis.
McCloskey	Rarick	Thone
McClure	Rees	Tiernan
McCollister	Reid, Ill.	Udall
McCormack	Reid, N.Y.	Ullman
McDade	Reuss	Veysey
McDonald,	Rhodes	Vigorito
Mich.	Riegle	Waggonner
McEwen	Roberts	Wampler
McFall	Robinson, Va.	Ware
McKay	Robison, N.Y.	Watts
McKevitt	Rodino	White
McMillan	Roe	Whitehurst
Madden	Rogers	Widnall
Mahon	Rooney, Pa.	Wiggins
Malillard	Rostenkowski	Williams
Mann	Roush	Willson, Bob
Martin	Roussetot	Winn
Mathias, Calif.	Roy	Wolf
Mathis, Ga.	Roybal	Wright
Matsunaga	Runnels	Wyatt
Mayne	Ruppe	Wydler
Meeds	Ruth	Wyllie
Melcher	St Germain	Wyman
Michel	Sandman	Yates
Miller, Calif.	Sarbanes	Yatron
Miller, Ohio	Satterfield	Young, Fla.
Mills, Ark.	Scherle	Young, Tex.
Mills, Md.	Scheuer	Zablocki
Minish	Schmitz	Zion
Mink	Schneebell	Zwach
Minshall	Schwengel	

NAYS—36

Abzug	Eckhardt	Morse
Annuzio	Edwards, Calif.	Mosher
Badillo	Green, Pa.	Nix
Barrett	Harrington	Rangel
Bingham	Hawkins	Roncallo
Blatnik	Helstoski	Rooney, N.Y.
Bolling	Koch	Rosenthal
Burke, Mass.	Leggett	Ryan
Burton	Macdonald,	Stokes
Celler	Mass.	Vanik
Collins, Ill.	Metcalfe	Whalen
Dellums	Mikva	
Dow	Mitchell	

NOT VOTING—46

Abernethy	Evins, Tenn.	Mazzoli
Addabbo	Flynt	Montgomery
Belcher	Ford	Passman
Bell	William D.	Peyser
Blackburn	Gallagher	Poff
Burlison, Mo.	Hanna	Purcell
Clay	Hansen, Wash.	Saylor
Conyers	Hastings	Sullivan
Davis, S.C.	Hillis	Thompson, Ga.
de la Garza	Jones, Tenn.	Van Deerlin
Devine	Kee	Vander Jagt
Diggs	Landgrebe	Waldie
Donohue	Landrum	Whalley
Edmondson	Long, La.	Whitten
Edwards, La.	McCulloch	Wilson
Esch	McKinney	Charles H.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. McKinney.
Mr. Burlison of Missouri with Mr. Belcher.
Mr. Charles H. Wilson with Mr. Bell.
Mr. Evins of Tennessee with Mr. Devine.
Mr. Purcell with Mr. Landgrebe.
Mr. Flynt with Mr. Blackburn.
Mr. Abernethy with Mr. Hillis.
Mr. Montgomery with Mr. Hastings.
Mrs. Sullivan with Mr. Saylor.
Mr. Hanna with Mr. Vander Jagt.
Mr. Waldie with Mr. Peyser.
Mr. Jones of Tennessee with Mr. Esch.
Mr. Passman with Mr. Poff.
Mr. Gallagher with Mr. Conyers.
Mr. Whitten with Mr. Whalley.
Mr. Landrum with Mr. Thompson of Georgia.
Mr. Davis of South Carolina with Mr. de la Garza.
Mr. Van Deerlin with Mr. Clay.
Mr. Kee with Mr. Diggs.
Mr. Mazzoli with Mr. William D. Ford.
Mr. Donohue with Mr. Edwards of Louisiana.
Mr. Edmondson with Mrs. Hansen of Washington.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ACCESS TO INFORMATION

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, by a vote of 351 to 36, this Congress has taken one giant step forward for the cause of democracy.

Mr. COLLINS of Texas wanted certain information from the Department of Health, Education, and Welfare which the Committee on Education and Labor had failed to get. He came to the floor of the House and introduced a resolution discharging the Committee from further action, and asked the members to reaffirm his right to this information.

In passing this resolution we have established the right of a man representing the American public to have any information he wants as to what any branch of this Government is doing.

Too long has the Congress been denied access to information of programs not necessarily in the public interest.

The seniority system has made it possible for a chairman of a committee to stop any action he wants to stop. This vote serves notice that members will now come to the House with their requests if the chairmen are not responsive.

During the argument, the majority leader, Mr. Boggs, and the majority whip, Mr. O'NEILL, pointed to the fact that this would be setting a dangerous precedent. To this I say, Mr. Speaker, dangerous for whom? Certainly not for the American public.

PERSONAL EXPLANATION

(Mr. MAZZOLI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MAZZOLI. Mr. Speaker, I was scheduled to depart Louisville on Eastern Airline flight 522 at 10:55 a.m. this morning and arrived here at Washington

National Airport was scheduled for shortly after 12 noon today.

Because of an equipment failure, flight 522 did not leave Louisville until almost 3 p.m. this afternoon. Thus, I did not arrive in Washington until shortly before 5 p.m.

Because of this equipment failure, I was prevented from being on the floor of the House today during the period when three record votes were taken.

Had I been present at the time the conference report on H.R. 9272, Appropriations for the Departments of State, Justice, Commerce, and Judiciary, I would have voted "yea."

Had I been present at the time the vote was taken on the motion to discharge the Committee on Education and Labor from further consideration of House Resolution 539, directing the Secretary of Health, Education, and Welfare to furnish certain documents to the House of Representatives which pertain to the busing of children to achieve racial balance in the schools, I would have voted "no."

Had I been present at the time the vote was taken on adoption of House Resolution 539, I would have voted "yea."

CONCERNING THE WAR POWERS OF CONGRESS AND THE PRESIDENT

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1) concerning the war powers of the Congress and the President.

The Clerk read as follows:

H.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and emergency circumstances has the authority to defend the United States and its citizens without specific prior authorization by the Congress.

SEC. 2. It is the sense of Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

SEC. 3. In any case in which the President without specific prior authorization by the Congress—

(1) commits United States military forces to armed conflict;

(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the president of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization.

(C) the estimated scope of activities; and

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

Sec. 4. Nothing in this joint resolution is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties.

The SPEAKER. Is a second demanded?

Mr. FINDLEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wisconsin is recognized for 20 minutes.

Mr. ZABLOCKI. Mr. Speaker, I yield myself as much time as I may require.

Mr. Speaker, House Joint Resolution 1 reasserts in a constitutional and practical way the power and authority of Congress in the matter of war-making.

This resolution is virtually identical to a war powers resolution which was passed under suspension of the rules by the House on November 16, 1970, by the overwhelming vote of 288 to 39.

When the Senate subsequently failed to act on the House resolution before the end of the 91st Congress, it died with adjournment.

Today the House is being asked to reaffirm its earlier decision that the concept embodied in this resolution represents a clear and firm consensus of the House in the matter of war powers.

The only modification of the earlier House-passed resolution which was made in House Joint Resolution 1 resulted from the desire to gain the broadest possible support.

The resolution approved by the House last Congress contained the phrase "whenever feasible" in section 2—as:

It is the sense of Congress that, *whenever feasible*, the President should seek appropriate consultation with the Congress before involving the Armed Forces, etc.

When the resolution was reintroduced into the 92d Congress that phrase was deliberately omitted. The reasons were:

First, the phrase apparently had been the most controversial part of the resolution during its consideration in the House in 1970. Several members told me that they based their opposition to the resolution on the inclusion of those two words. This year those two words, which troubled some, have been eliminated and open the way for their support of House Joint Resolution 1.

A second reason for eliminating the phrase is that it had no essential significance in the resolution. The section in which it appears remains a "sense of Congress" provision and thus advisory rather than mandatory on the President.

Even though this resolution had been drafted and approved by the Committee after extensive hearings in 1970, the Subcommittee on National Security Policy held additional hearings on House Joint Resolution 1 and other war powers bills this year.

Once again the subcommittee was convinced of the wisdom of the approach embodied in the resolution. On July 21 the full House passed the resolution.

tee considered House Joint Resolution 1 and voted unanimously to report it to the floor for passage.

Mr. Speaker, there are a number of members of this body who have themselves offered war powers resolutions. Many of those proposals are of much more sweeping effect than the resolution before us today. For that reason, it is possible to question their constitutionality or their feasibility in view of the fact that to become effective they must become law.

House Joint Resolution 1 cannot be questioned on either count.

It is clearly a legitimate and constitutional exercise of congressional power to pass such a resolution.

Second, I believe that the President will sign this resolution, or at least allow it to become law. In that regard, it should be pointed out that representatives of the executive branch who have testified on the proposal have made it clear that they find nothing in it which they would find objectionable.

This is so, I believe, because the resolution was drafted with bipartisan support, not in an effort to provoke confrontation between the legislative and executive branches, but rather to promote greater cooperation and consultation in the national interest.

Because this resolution was formed in a spirit of cooperation rather than confrontation, I believe it reflects a consensus in the House on objectives which new war powers legislation should fulfill. Those objectives are three:

First, House Joint Resolution 1 reaffirms and reasserts the constitutional grant of power to Congress to declare war, while recognizing the responsibility of the President to defend the Nation against attack, without specific prior congressional authorization, in emergency circumstances.

Second, the resolution makes clear that, to the maximum extent possible, the Congress should be consulted prior to Presidential action involving the commitment of U.S. forces to combat even if the crisis does not permit Congress to act first.

Third, House Joint Resolution 1 places a new reporting requirement on the President. It directs that he must promptly present to Congress a formal, written explanation whenever he takes certain actions involving U.S. Armed Forces without prior congressional approval.

Among Presidential actions included are the commitment of troops to armed conflict or the risk thereof, the initial movement of significant numbers of U.S. forces to foreign soil, and the substantial enlargement of units already stationed abroad.

That is the total effect of the resolution. As section 4 of the proposal makes explicit, it does not alter the constitutional authority of either Congress or the President, nor does it affect the provisions of existing treaties.

While it neither increases or diminishes the existing war powers of Congress and the President, House Joint Res-

greater understanding and coordination between the two branches of Government in the greater national interest.

We may reasonably expect situations to arise in the future, as they have in the past, which will threaten conflict between the Congress and the President over the exercise of the war-making powers. Passage of House Joint Resolution 1 will prevent such strife at critical periods in our Nation's history.

Key to this effect of the resolution is section 3 which imposes a reporting requirement and thereby opens up a formal channel for communication between the President—the Commander in Chief—and the Congress.

Since the reporting requirement contained in section 3 of the resolution is the heart of the proposal, it requires some further explanation.

House Joint Resolution 1 calls for the President to file a report with the Congress in three situations in which he acts without specific prior congressional authorization.

Those situations are:

First, when he commits U.S. military forces to armed conflict.

This would include commitments of U.S. forces into situations or areas where conflict already is taking place and there is reasonable expectation that American military personnel will be subject to hostile fire.

For example, if the resolution had been in force in 1965, the President would have been required to make a formal report to Congress about the Dominican Republic action.

Second, the President would be required to report to Congress in any situation in which he commits military forces equipped for combat to the territory, airspace or waters of a foreign nation, except for deployments which relate solely to routine matters such as supply, repair, training, or for humanitarian purposes.

This provision is designed to cover those commitments of troops in situations where there is no actual fighting, but some risk, even if it is small, of our forces being involved sooner or later in hostilities.

Thus, for example, the dispatch of Marines to Thailand in 1962 and the Lebanon landing of 1958 would have required a report to Congress.

Third, the President would be required to report whenever he substantially enlarged numbers of U.S. military forces already located in a foreign nation.

While the word substantial is subject to interpretation, it is possible to have a common sense understanding of the numbers involved. A thousand additional men sent to Germany or Vietnam would not be a substantial enlargement of U.S. forces there. If a thousand-additional-man contingent were sent to Guantanamo Bay, Cuba, however, it would increase U.S. forces by some 25 percent and would require a report.

The report itself is prescribed in some detail by the resolution. It is to be submitted promptly, that is, within several days of the President of the